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Crl.R.C.No.1952 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.11.2023

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1952 of 2023

R.Velmurugan

... Petitioner/Accused

Vs.

V.R.Shanthi

... Respondent

PRAYER: Criminal Revision Case has been filed under Sections 397 and 401 of Cr.P.C, praying to set aside the order passed in CMP No.2683 of 2023 dated 07.06.2023 on the file of Judicial Magistrate, Fast Track Court (Magisterial Level), Alandur by allowing the present Criminal Revision petition.

For Petitioner

: Mr.M.Rakhi

ORDER

This petition has been filed to set aside the order passed in C.M.P.

No.2683 of 2023 dated 07.06.2023 on the file of learned Judicial Magistrate,

Fast Track Court (Magisterial Level), Alandur.



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2.The petitioner filed a private complaint against one V.R.Shanthi/respondent, wife of Vadivel Ramesh, his neighbour, under Section 138 of NI Act along with petition under Section 142(iii) of NI Act and an affidavit giving reason for 745 days delay in preferring the complaint. In the affidavit petitioner averred that statutory notice was issued to the respondent on 24.02.2021, which was received on 26.02.2021, thereafter the respondent sent a reply admitting the transaction between the petitioner and respondent. Further admitted that the cheque was handed over in discharge of liability and due to financial crisis and lock down in the year 2020, she could not repay the amount immediately and agreed to pay the amount of Rs.1,50,000/- in three installments and settle the entire amount. Further, the relationship as neighbours is also not denied. The Trial Court failed to consider the affidavit and the reply notice of the respondent. Further, pointing out the signature found in the reply notice dated 13.03.2021 and cheque/Ex.P1, learned counsel submitted that reply notice sent by V.R.Shanthi signed by herself is not disputed. In view of the same, the Lower



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Court ought to have condoned the delay, taken the complaint on file. On the other hand, Lower Court given a finding that the reason given by the petitioner is not convincing and reasonable, which is not proper.

3.Learned counsel for the petitioner in support of his contention produced the statutory notice, reply notice, copy of the cheque and affidavit, which was filed before the Lower Court under Section 142 of the NI Act.

4.Considering the submission and on perusal of the material it is seen that the transaction between the respondent and the petitioner is not seriously disputed by the respondent. Further she had also gave an undertaking to settle the dues and the delay of settling dues is only due to covid-19 restrictions and on the undertaking given by the respondent. The substantial justice to the petitioner would be curtailed if the complaint is not entertained at the threshold. In view of the same, this Court finds reason in the petitioner's submission and inclined to condone the delay.



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M.NIRMAL KUMAR, J.

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5. Accordingly, the Criminal Revision Case is allowed and the order passed in C.M.P.No.2683 of 2023 dated 07.06.2023 on the file of learned Judicial Magistrate, Fast Track Court (Magisterial Level), Alandur is set aside. The Trial Court is directed to take the complaint on file and dispose of the same on its own merits and in accordance with law.

17.11.2023

Index: Yes/No

Internet : Yes/No

Speaking order / Non-speaking order

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To

1. The Judicial Magistrate,
Fast Track Court (Magisterial Level),
Alandur.
2. The Public Prosecutor,
High Court, Madras.

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